

CPCS FY 2004 Budget Request

December 17, 2002

Index

	<i>Page</i>
Budget Overview Spreadsheet	1.
Staffing & Operations Line 1500	2.
Public Defender Unit line 1502	4.
Children & Family Law Offices Line 1503	5.
Youth Advocacy Project (YAP) Line 1504	6.
Private Attorney Criminal Case Fees Line 1510	7.
Private Attorney Non-Criminal Case Fees Line 1512	8.
Indigent Court Costs Fund Line 1520	9.

CPCS FY 2004 Budget Request

1/14/03

Appropriations 0321	1500 Operations	1502 P. Defend.	1503 CAFL	1504 YAP	1510 Priv.Crim.	1512 Non-Crim.	1520 Ct. Costs	Total
FY 2003 Appropriations	7,614,304	7,241,014	751,397	414,274	41,184,881	19,882,356	4,382,420	81,470,646
Fees/Ct. Costs Sup., '02 Level-fund + '03 Growth					6,609,392	5,258,481	4,427,580	16,295,453
Tot. '03 Appropriations & 1510/12/20 Supplement	7,614,304	7,241,014	751,397	414,274	47,794,273	25,140,837	8,810,000	97,766,099
Maintenance:								
Legal Services & Court Costs Expected '04 Growth	36,990	58,356	7,249	2,352	1,992,227	1,075,163	830,292	3,897,682
4 Months '04 Maintenance for '03 Salary Increase	26,979		946					104,947
Maintenance Increases (Office Leases)	82,635	314,288	10,150	41,373				27,925
Maintenance Increases (Positions filled in '03)	7,760,908	7,613,658	769,742	457,999	49,786,500	26,216,000	9,640,292	448,446
Total Including Maintenance								102,245,099
Expansion:								
Staff Attorney '04 Salary Increase	41,497	339,161	37,388	7,053				425,099
Non-Attorney Staff '04 Salary Increase	28,128	5,281	1,728	2,616				37,753
New Children & Family Law Office			359,100	480,000				359,100
3 Youth Advocacy (YAP) Units	42,000							480,000
Additional Auditor For Private Counsel Bill Audit	50,000							42,000
SORB Assigned Counsel Support/Oversight Atty.								50,000
Total Before Private Attorney Hourly Rate Increase	7,922,533	7,958,100	1,167,958	947,668	49,786,500	26,216,000	9,640,292	103,639,051
Private Attorney Hourly Rate Increase					7,738,310	3,323,070		11,061,380
Total	7,922,533	7,958,100	1,167,958	947,668	57,524,810	29,539,070	9,640,292	114,700,431

Committee For Public Counsel Services
FY 2004 Budget Proposal 0321-1500 Operations

This budget line supports all CPCS Operations. It funds salaries, office space and support for critical training, certification, assignment, quality control, and support services for 110 public defenders and 2,600 assigned counsel in more than 260,000 cases annually. Furthermore, this budget line provides funding for all CPCS bill processing, auditing, and information technology.

These support functions must be maintained and enhanced in order to responsibly manage the workload increases caused by the continuing growth in private counsel cases and indigent court costs. Funding of this line enables CPCS to implement and control cost reduction initiatives necessary to manage the \$85 million (FY 2004 projection) of attorney fees and court costs on some 300,000 bills. The 2004 plan, as presented here, continues CPCS's efforts to bring rational and fiscally responsible management to our responsibilities.

The 2004 budget request is \$7,922,533. The following are the areas which need increased funding versus the FY 2003 reduced appropriation:

Maintenance:

A pay increase averaging 2.8% for CPCS staff was implemented November 1, 2002, coming 22 months after the previous, equally small increase. Four months maintenance for this change is required for FY '04.

\$ 36,990

Office Lease rent increases for Cambridge (\$15,600), Salem (\$3,360), Barnstable (\$1,842), Brockton (\$1,815), Lowell (\$1,335), and Roxbury (\$1,104).

\$ 26,979

Annualization maintenance is required for certain positions vacated by attrition, then filled in FY 2003, after a substantial period of vacancy.

\$ 82,635

1500 Maintenance Total

\$146,604

Expansion:

FY 2004 attorney salary increase of \$41,497 based on current state employee counsel I & II salary rates, and a staff increase totaling \$28,128 based on average increases of 3%.

\$ 69,625

One new private counsel payment auditor position intended to capitalize on the availability of additional data resulting from a new bill payment computer system (CPCSEBill.com). The \$76 million of private attorney fees requires this position to control cost and prevent over-billing.

\$ 42,000

The ramp-up of sex offender registry board hearings, already in progress, will accelerate in FY '04 creating a considerable number of new case assignments to the private bar. A support and oversight attorney position is required to oversee this representation.

\$ 50,000

1500 Expansion Total

\$161,625

Committee For Public Counsel Services
FY 2004 Budget Proposal 0321-1502 Public Defender

The FY 2004 budget request for the Public Defender division, consisting entirely of payroll (support costs including the salaries of the secretarial staff are in the operations line 1500), is \$7,958,100. The following are the areas which need increased funding versus the FY 2003 reduced appropriation:

Maintenance:

A pay increase averaging 2.8% for CPCS staff was implemented November 1, 2002, coming 22 months after the previous, equally small increase. Four months maintenance for this change is required for FY '04.

\$ 58,356

Annualization maintenance is required for certain positions vacated by attrition, then filled in FY 2003, after a substantial period of vacancy.

\$314,288

Maintenance total

\$372,644

Expansion:

CPCS attorneys are paid significantly below the standards used elsewhere in state government. The low salary level at CPCS hurts in hiring, in retention, and ultimately in ability to deliver an effective defense to indigent clients – our reason for existence, and the Commonwealth's constitutional requirement. In recognition of this problem an FY 2004 salary increase approximating current salaries for Commonwealth counsel I, and counsel II, is planned, along with 3% for investigators and social workers.

\$344,442

**Committee For Public Counsel Services
FY 2004 Budget Proposal 0321-1503
Children & Family Law Regional Offices**

The FY 2004 budget request for the Children and Family Law (CAFL) staffed offices within CPCS responsibilities is \$1,167,958. CAFL fills a vital need for effective representation of children and parents in Care and Protection cases. The following are the areas which need increased funding versus the FY 2003 reduced appropriation:

Maintenance:

A pay increase averaging 2.8% for CPCS staff was implemented November 1, 2002, coming 22 months after the previous, equally small increase. Four months maintenance for this change is required for FY '04.

\$ 7,249

The office Lease rent increases for the Salem CAFL.

\$ 946

Annualization maintenance is required for certain positions vacated by attrition, then filled in FY 2003, after a substantial period of vacancy.

\$ 10,150

1503 Maintenance Total

\$ 18,345

Expansion:

A FY 2004 attorney salary increase of \$37,388 based on current state employee counsel I & II salary rates, and a staff increase totaling \$1,728 based on average increases of 3% is planned.

\$ 39,116

Establish a third, permanent Children and Family Law office.

\$359,100

1503 Expansion Total

\$398,216

Committee For Public Counsel Services
FY 2004 Budget Proposal 0321-1504 Youth Advocacy

The proposed FY 2004 budget for the CPCS Youth Advocacy Program (YAP), line 1504, is \$947,668. YAP brings a nationally recognized, innovative, multi-disciplinary approach to the legal representation of children. In a very real sense, YAP works to prevent future criminal acts through early and positive intervention. Assuring the continued progress of YAP within CPCS is a high committee priority.

Maintenance:

A pay increase averaging 2.8% for CPCS staff was implemented November 1, 2002, coming 22 months after the previous, equally small increase. Four months maintenance for this change is required for FY '04. \$ 2,352

Annualization maintenance is required for certain positions vacated by attrition, then filled in FY 2003, after a substantial period of vacancy. \$ 41,373

\$ 43,725

1500 Maintenance Total

Expansion:

FY 2004 attorney salary increase of \$7,053 based on current state employee counsel I & II salary rates, and a staff increase totaling \$2,616 based on average increases of 3%. \$ 9,669

Building on the success of YAP in Roxbury, it is proposed to take advantage of available space in three Public Defender offices to expand YAP. The new YAP locations would each be staffed by two attorneys and a social worker. \$480,000

\$489,669

Expansion Total

**Committee for Public Counsel Services
FY 2004 Budget Proposal 0321-1510
Private Counsel Criminal Case Fees**

The baseline projection for private attorney compensation in criminal cases (before needed hourly rate increases) is \$49,786,500. Increasing hourly rates by \$10/hour for murder cases and by \$5/hour for all other cases would add \$7.7 million to this budget request, for a total appropriation of \$57,524,810.

CPCS has continued to implement cost containment procedures in the management of privately assigned cases, and is continuously planning new initiatives. For example, continuing in 2004 will be waiting time controls and daily total hour controls which will reduce costs by a minimum \$1.1 million in FY 2004 from a base without those controls.

Through its leadership on the Emergency Task Force on Indigency Verification, CPCS was able to work successfully with the Judiciary to improve the indigency determination process, and thereby provide better assurance that the legal services provided by CPCS in criminal cases are reserved for those people who are actually indigent as defined by Rule 3:10 of the Supreme Judicial Court.

After several years of stable or declining numbers of criminal case assignments (due to high rates of employment, and enhanced indigency screening by the courts), CPCS has experienced an increase in the number of criminal assignments (up 7 % in FY '02). In particular, we have noted a substantial increase in probation revocation cases (up 84 % in FY 02), and in Superior Court bail review petitions. These assignment increases may reflect both the pronounced economic downturn which has beset the Commonwealth, and tougher judicial positions with regard to bail and probation. Continuation or acceleration of these trends would add significantly to CPCS criminal case expenditures.

Overview Of The Construction Of The FY 2004 Budget Request

	(\$ Thousands)
FY 2003 Appropriation	\$41,185
Needed To Bring to Level Of FY '02 Actual Cost	\$ 4,698
Add FY '03 expected Growth	\$ 1,912
Add FY 2004 expected Growth	<u>\$ 1,992</u>
Total Before Expansion	\$49,787
Add Attorney Rate Increase of \$10 Murder cases & \$5 other	<u>\$ 7,738</u>
FY 2004 1510 Budget Request	\$57,525

Committee For Public Counsel Services
FY 2004 Budget Proposal 0321-1512
Private Counsel Non-Criminal Case Fees

The baseline projection for private attorney compensation for children and family law and mental health cases (before needed hourly rate increases) is \$26,216,000. This estimate assumes the same growth rate in FY 2003 & 2004 as experienced in FY 2002. Increasing attorney compensation rates by five dollars per hour would add \$3.3 million, bringing the total request for FY 2004 to \$29,539,070.

CPCS has continued to implement cost containment changes, and is planning others. For example, continuing for fiscal year '03, waiting time controls and daily total hour controls will reduce cost by approximately \$800 thousand for FY 2004, from a base without those controls.

Legislation in 1992, amended in 1999, providing expanded court authority to permanently terminate parental rights has continued to increase the complexity and, therefore, the cost of "care and protection" cases. Another cost factor is the routine appointment of counsel by certain courts, without strict compliance with the procedures for determining eligibility for publicly funded counsel set forth in Supreme Judicial Court Rule 3:10.

Increases in several categories of civil cases may be anticipated this fiscal year. For example, the Sex Offender Registry with a more active operation will require CPCS representation at administrative hearings before the Board, and on judicial review in the Superior Court. Legislation approved in July, 2000 will continue to increase counsel appointments in mental health civil commitment cases. Finally, CPCS anticipates a continuing increase in sexually dangerous person (SDP) commitment trials (up 38 % in FY '02), due to recent case law which clarified the procedures for these lifetime civil commitment cases.

Overview Of The Construction Of The FY 2004 Budget Request

	(\$ Thousands)
FY 2003 Actual Appropriation	\$19,882
Needed To bring to the level of FY 2002's Actual Expenditure	\$ 4,228
Add FY 2003 (\$1,031) & 2004 (\$1,075) Growth at '02's rate	\$ 2,106
Total Before Expansion	\$26,216
Proposed FY 2004 Attorney Hourly Rate Increase	\$ 3,323
FY 2004 1512 Budget Request	\$29,539

**Committee for Public Counsel Services
FY 2004 Budget Proposal 0321-1520
Indigent Court Costs**

The FY 2004 CPCS Indigent Court Cost budget request is \$9,640,292, based on the rate of growth experienced in fiscal year 2002.

Line 0321-1520 is unique among CPCS budget lines, in that CPCS acts only as a disbursing agent for indigent party costs, in CPCS and non-CPCS cases alike, which have been authorized by a judge. Although its responsibility is thus restricted, CPCS has taken concrete steps to control growth through various initiatives. For example, audits are being conducted, billing rate ranges for a variety of expert categories have been defined, and every attorney who receives a court order which authorizes the provision of a service at public expense is required to certify actual receipt of that service.

The \$9.6 million FY 2004 request breaks down approximately into the following areas of expenditure:

(Thousands \$)

Psych Exam	\$3,000	Summons Delivery	\$ 500
Investigation	\$3,000	Photocopying	\$ 200
Transcription	\$1,300	Educational Advocate	\$ 100
Expert Witness	\$1,000	All Other	\$ 540

Overview Of the Construction Of The FY 2004 Budget Request

	(\$ Thousands)
FY 2003 Actual Appropriation	\$ 4,383
Needed To Bring to Actual Spent In FY'02 (Incl. Supplement)	\$ 3,671
Add '03 (\$756) & '04 (\$830) Growth at '02 rate	<u>\$ 1,586</u>
FY 2004 Budget Request	\$ 9,640